

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2023-00134

December 5, 2023

MAINE PUBLIC UTILITIES COMMISSION
Amendments to Chapter 317 of the
Commission's Rules

ORDER AMENDING RULE
AND STATEMENT OF
FACTUAL AND POLICY BASIS

BARTLETT, Chair; GILBERT and SCULLY, Commissioners

I. SUMMARY

By this Order, the Commission amends Chapter 317 of the Commission's Rules regarding the Arrearage Management Program (AMP or the Program). Specifically, the Commission amends Chapter 317 to: 1) allow participants to miss two payments before disqualification from the program; 2) allow a ratepayer to participate once every seven years rather than once in a lifetime; 3) allow all Low-income Assistance Program (LIAP) eligible ratepayers to qualify for AMP; 4) increase the maximum monthly AMP benefit to \$500 a month (which increases the total amount eligible for forgiveness to \$6,000 a year); and 5) change the enrollment process to ensure that participants are not required to pay for more than one month of service at a time when enrolled in AMP. The Commission also approves other non-substantive changes to the rule.

II. BACKGROUND

The Commission first promulgated Chapter 317 in 2015 following the passage of P.L. 2013, ch. 556, An Act to Assist Electric Ratepayers. The law requires investor-owned transmission and distribution utilities (T&D utilities) to implement arrearage management programs to assist eligible low-income residential customers who are in arrears on their electricity bills. The rule applies to ratepayers in Central Maine Power (CMP) and Versant Power (Versant) territory.

A. Current AMP Eligibility Criteria

Under the current rule, to be eligible for the AMP, a residential customer must be Low-income Home Energy Assistance program (LIHEAP) eligible, have an arrearage amount greater than or equal to \$500 that is at least 90 days in arrears, and the account must be or will be individually metered and taking service on a continuing year-round basis. In exchange for timely payment of the current amount due on each monthly bill, AMP participants can receive forgiveness of up to 100 percent of their past-due amount at the time of enrollment, up to \$3,600 during a 12-month period. The forgiveness credit is equal to one-twelfth of the total past-due amount at the time of enrollment, subject to a monthly cap of \$300.¹ Under the current rules, participants are removed from the

¹ If a participant owes more than \$3,600, they would need to re-enroll in the AMP each year until the full amount of arrearage is forgiven.

program if they fail to make current payments and all former Program participants are ineligible to participate a second time.

B. Electric Ratepayer Advisory Council Recommendations

In April 2022, the Governor approved P.L. 2021, ch. 623, “An Act to Create the Electric Ratepayer Advisory Council” (the Council). It is the Council’s duty to make recommendations to the Office of the Public Advocate (OPA) regarding methods to ensure that ratepayers are able to afford electricity in the State. In its 2022 Initial Annual Report, the Council made three recommendations regarding AMP, which form the basis for this rulemaking.

First, the Council recommended modifying the Program to allow an AMP participant to miss two payments before disqualification. Currently, Central Maine Power will reinstate into the Program a customer who has one missed payment if the customer pays in full the missed monthly payment, including all late fees. But, upon a second default, the company will permanently remove the customer from the AMP. The customer also will become ineligible for future participation in the AMP, even if the defaults are cured. In contrast, Versant Power allows an AMP participant to miss two payments, and the participant is only removed if no late payments are made or a third missed payment occurs.

Second, the Council recommended allowing AMP participation once every seven years rather than just once in a lifetime. Currently, ratepayers may participate in AMP only once. The Council points out that an AMP participant may experience the kind of situation that causes their need to participate in AMP again. Thus, AMP should be available if needed periodically, rather than just once in a lifetime. To administer this, the utility record of ratepayer AMP participation should include the completion date of each iteration.

Third, the Council recommended that all LIAP-eligible ratepayers automatically qualify as income eligible for the AMP program. This will allow customers who participate in a DHHS means-tested program and who are at or below seventy-five percent of the Federal Poverty Line to be income eligible for AMP. Currently, only LIHEAP eligible customers are income eligible for AMP. Because LIAP eligibility is now available to those who qualify for certain DHHS income eligible programs, it is important that these ratepayers also be income eligible for AMP.

C. OPA Petition

Based on the recommendations of the Council, the OPA filed a Petition to Amend Chapter 317 Rule on Statewide Arrearage Management Program (Petition) on June 9, 2023. In addition to the recommendations from the Council, the OPA made the recommendation to increase the maximum monthly AMP benefit from \$300 per month to \$500 per month (increasing the total annual arrearage amount that could be forgiven from \$3,600 per year to \$6,000.) The OPA points out that the current maximum annual benefit, set in 2015 when the AMP was first created, has never been raised. Yet, rising energy costs translate into higher arrearage balances that make it harder for customers

to catch up. Raising the maximum monthly AMP benefit would create a greater incentive for customers to communicate with T&D utilities and enroll in the AMP. This helps the T&D utilities to maintain active customers instead of needing to send disconnect notices, and to dissuade the practice of trying to avoid a past due amount by attempting to transfer service to another household member's name.

D. Commission Recommendations

The Commission proposed two additional changes to the rule. The first proposed change is a change in enrollment timing so that an AMP participant is not responsible to pay for more than one-month's of usage at the time the customer enrolls in the AMP. Under the current program, some AMP participants who were enrolled in the middle of a billing period have been required to pay the current charges incurred for both the month when the customer was enrolled and the following full month. This caused some participants to be billed for up to two months of service, which in turn caused some participants to default on their first bill. Changes to the rule would require the utility to time enrollment, or billing, so that the first bill represents one month of usage thereby reducing the likelihood of a default.

The second proposed change is to remove the requirement from the rule that an account must or will be individually metered to participate in the AMP. This language was originally intended to avoid mixed use accounts, i.e., commercial and residential, from being eligible. This language has had the unintended consequence of eliminating some residential accounts that have a separately metered garage or shed and the accounts are combined. These customers should be able to participate in the AMP, thus, the Commission proposes removing this language from the proposed rule.

E. Current Rulemaking Proceeding

The Commission issued a Notice of Rulemaking on August 28, 2023, which included the new proposed rule incorporating the changes proposed by the OPA and the Commission. Notice was served in this docket and the previous rulemaking docket, 2015-00015. The Commission received initial comments on or before September 22, 2023, from the OPA, CMP, and Versant Power. A public hearing was held on September 27, 2023. Only the OPA testified, but it did not provide additional substantive comments. On or before October 13, 2023, the Commission received final comments from the OPA and Versant.

III. POSITIONS OF THE PARTIES

A. OPA

The OPA filed initial comments on September 22, 2023 and final comments on October 13, 2023. In its initial comments, the OPA highlighted several areas of unclarity in the proposed rule, and, in some cases, offered suggestions for clarifying the language in the proposed amendments. The OPA suggested clarifying the timing surrounding the six-year period between re-enrollments and asked the Commission to

consider a situation where a participant may have a default in the twelfth month of the program.

The OPA addressed the issue which caused Program participants to pay for more than one month's worth of service. In order to remedy the situation, the OPA suggests locking in the arrearage amount at the time a customer applies for AMP. The OPA also suggested T&D utilities send notice upon the first default. Finally, the OPA suggested updating the Standard Intake form to account for beneficial electrification devices such as heat pumps and electric vehicles.

In its final comments, the OPA expressed its gratitude to the Commission for initiating the rulemaking, and to the other commenters for their insightful suggestions. The OPA again emphasized the importance of the program for low-income Maine ratepayers.

B. CMP

CMP filed comments on September 21, 2023. In its comments, CMP appreciated the opportunity to file comments and believes the proposed changes to the rules will maximize benefits and the potential for customer success on the Program. Broadly speaking, CMP agrees with the proposed changes to the rule.

Like the OPA, CMP suggests clarifying the timing regarding program re-enrollment. CMP also addresses the issue around enrollment timing and the amounts a customer is required to pay upon enrollment. CMP explains that they tell the customer at the time of enrollment that the current bill period still remains due and is not a part of the arrearage amount for AMP. While CMP supports the intent of the revision to the enrollment language, CMP thinks it is unnecessarily confusing. CMP suggests that the language be revised to forgive a participant's entire account balance at the time of enrollment, rather than only the arrearage. To accomplish this, CMP suggests that the term "Arrearage Amount" be replaced with "AMP Balance" and that the definition be changed to include the entire bill, not just the amount in arrears.

In addition to its comments on the proposed changes, CMP made additional suggestions based on their experience with AMP. CMP suggested updating some language of the rule to include updated terminology, including naming changes for certain low-income programs. CMP also suggests that Program participants which are terminated from AMP be immediately enrolled in a new payment arrangement, to be negotiated by the Consumer Assistance and Safety Division (CASD) of the Commission. CMP would also like the rule revised to it may automatically enroll participants in certain usage management tools provided by CMP.²

² CMP included a proposal to remove the single meter requirement among its additional suggestions. However, the proposed rule has removed the single meter requirement and CMP's suggestion comports with the changes made to the rule.

C. Versant

Versant submitted comments on September 5, 2023. Versant is generally supportive of the proposed changes and believes the Program provides a great benefit to customers who qualify. Versant has received a marked increase in applications for AMP between 2022 and 2023.

Versant supports the change which extends eligibility to LIAP-eligible customers but alerts the Commission to the increase in AMP applications Versant anticipates receiving which will result in an increase in administrative expenses. Currently, Versant handles the AMP program manually due to the high costs of implementing changes within its billing software. Versant, like CMP and the OPA, also request clarification as to re-enrollment timing. Versant further expressed concerns that allowing customers to re-enroll once every seven years discourages customers from paying their bills in full and on time, especially as the seven-year window closes. Versant supports the increase in monthly benefit and the supports the requirement that customers never pay for more than one month's service at a time. Finally, Versant offered comments on the changes to the tracking metrics noting that the design of their payment notation system may not be able to capture some of the new information.

IV. **RULE AMENDMENTS**

In addition to the specific amendments described below, the Commission is making editorial, clarifying, and non-substantive amendments throughout the Rule.

1. Section 1: Definitions

The Commission is amending the rule to update two definitions: Community Action Agency and LIHEAP. First, the abbreviation for Community Action Agency, which had formerly been abbreviated as "CAP," will now be abbreviated as "CAA" in the definition and throughout the rule, as suggested by CMP. Second, the definition for LIHEAP (Low-income Home Energy Assistance Program) is updated from LIHEAP to its current terminology "Home Energy Assistance Program" or "HEAP." No party opposed or commented on the change from LIHEAP to HEAP. References to LIHEAP are changed to HEAP throughout the document. Third, the reference in the definition to "needy households" has been changed to "households in need."

CMP suggested changing the definition "Arrearage Amount" to "AMP Balance" to better deal with the enrollment timing issue which caused some Program participants to miss their initial payments. This would mean that when a customer enrolls, the account balance, including the arrearage and current usage, would become the "AMP Balance," and thus eligible for forgiveness under the Program. The Commission declines to adopt this definition change because it could include a "current amount due" in the definition qualifying for forgiveness, which is inconsistent with the statute. Further, the term "arrearage" is used throughout the rule and the statute and changing the term in the rule causes unnecessary confusion.

2. Section 3: Required Design Features of AMP

The Commission is amending this section in a variety of ways to improve the design of AMP. First, Section 3(A)(4) is amended to expand eligibility criteria so that a customer may participate in AMP once every seven years. Based on the feedback from all commenters, the Commission has clarified that a customer will be re-eligible for enrollment six years from their exit from the program, whether it be from completion, withdrawal, or Default.

Section 3(C)(2) is amended to add language concerning a customer's initial enrollment in the program. The rule is amended to ensure that a customer is only responsible for the current month's usage at the time of enrollment and so that a customer is never responsible for more than one month's worth of service at a time. Though CMP expressed concern with this language and suggested the term "AMP Balance" be used to replace the definition "Arrearage Amount," as discussed above, the Commission finds that the intent of the language adopted is clear and it provides T&D utilities with the flexibility to address the problem as the T&D utility sees fit. Section 3(C)(4) is amended to increase the maximum monthly benefit from \$300 a month to \$500 a month, based on the OPA's original petition. Section 3(C)(5) is amended to increase the maximum total benefit during participation to \$6000.

CMP suggested amending Section 3(D) to allow T&D utility companies to enroll Program participants in certain utility usage management programs upon enrollment in AMP. In comments, CMP stated that it sought to enroll participants in usage alerts, a program which helps customers control their electricity usage. However, AMP participants are already required to enroll in certain energy management programs under Section 3(J), which could be read to include the usage alerts. Further, it is unclear what incentive would be provided by requiring usage alerts in this section of the rule specifically. Section 3(D) is intended to provide additional monetary benefits when an AMP participant lowers their electricity usage and maintains the payment arrangement. To make it clearer, the language in Section 3(J) is revised slightly to ensure that the subsection allows AMP participants to enroll in every possible program, tool, or technology a T&D utility may offer which would help manage usage and arrears.

3. Section 4: Obligations of Transmission and Distribution Utilities

Section 4(A)(4) is added to the rule which modifies noticing requirements to require T&D utilities to send AMP participants a notice after the first Default, based on comments from the OPA. T&D Utilities may choose the manner of notice.

Section 4(H) is amended to remove the date September 1, 2017, which represented a date associated with the first report to the Maine Legislature. The date is replaced with "as requested" to account for future legislative reports which may be necessary. Section 4(H)(5)-(6) are added which refine data collection requirements for T&D utilities. Reporting will now require T&D utilities to document when participation ends for each AMP participant and whether by completion, withdrawal, or default. T&D

Utilities must also document whether, for participants who have had their entire arrearage amount forgiven, paid each of their bills on-time through their own efforts or whether they received assistance payments for some of their bills.

Versant expressed concerns for the new data collection and reporting requirements due to issues tracking payments received through its payment lockbox vendor. However, based on Versant's comments, it seems that Versant can track the source of the majority of payments made and in a way which can be reported to the Maine Legislature.

V. ORDERING PARAGRAPHS

In light of the foregoing, the Commission

O R D E R S

1. That Chapter 317– Statewide Arrearage Management Program is hereby amended as described in the body of this Order and as set forth in the amended Rule attached to this Order;
2. That the Administrative Director shall file the amended Rule with the Secretary of State;
3. That the Administrative Director shall notify the following of this rulemaking proceeding:
 - a. All persons who have filed with the Commission a written request for notifications regarding Notices of Rulemaking within the past year;
 - b. The Office of the Public Advocate;
 - c. All electric utilities in Maine; and
 - d. All commenters in the previous AMP rulemaking docket, 2015-00015.
4. That the Administrative Director shall send a copy of the amended Rule to the Executive Director of the Legislative Council.

Dated at Hallowell, Maine, this 5th day of December 2023

BY ORDER OF THE COMMISSION

/s/ Harry Lanphear

Administrative Director

COMMISSIONERS VOTING FOR: Bartlett
 Scully
 Gilbert

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S. § 9061 requires the Public Utilities Commission to give each party at the conclusion of an adjudicatory proceeding written notice of the party's rights to seek review of or to appeal the Commission's decision. The methods of review or appeal of Commission decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 11(D) of the Commission's Rules of Practice and Procedure (65-407 C.M.R. ch. 110) within **20** days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought. Any petition not granted within **20** days from the date of filing is denied.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21** days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S. § 1320(5).

Pursuant to 5 M.R.S. § 8058 and 35-A M.R.S. § 1320(6), review of Commission Rules is subject to the jurisdiction of the Superior Court.

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.